

Coastal Watershed Invasive Plant Partnership

Thursday October 21, 2010 - 9 am- 12 pm

Urban Forestry Center, Portsmouth, NH

Attendees:

Rachel Stevens (GBNERR),
Joanne Glode (TNC),
Fred Borman (UNH CE),
Kevin Lucey (NHCP),
Morgan Eastman (NHCP),

Andy Gould (GBNERR),
Ryan Flynn (Hampton DPW),
Jeffery Taylor (VCS),
Florence Peterson (USFS),
Linda Ball (Newcastle CC),

Karen Bennett (UNH CE),
Ellen Snyder (Ibis consulting),
Doug Cygan (Dept of Ag.),
Jean Eno (Winnicut Coalition),
Lenny Lord (RCCD).

Presentation: Commercial Not-For-Hire Pesticide Licensing Requirements

Presenter: Rachel Maccini, Pesticide Education Coordinator, UNH Cooperative Extension

Responsibilities of the Division of Pesticide Control (DPC)

- Product registration;
- Certification and training;
- Groundwater protection;
- Worker protection standards;
- Inspections.

Interesting Facts about the Division of Pesticide Control

- 10,500 registered products;
- 1,800 licensed applicators;
- 582 private applicators, 1,238 commercial applicators;
- 44 Dealers;
- 102+ recertification seminars.

FIFRA- Federal Insecticide, Fungicide, Rodenticide Act: (Federal law regulating pesticides)

- Product must be classified;
- Established private and commercial applicators;
- Pesticides applied according to the label;
- Each state is authorized to regulate pesticides.

Types of Licensing

- 20 categories of commercial license;
- 10 categories of private license;
- Question: Is there licensing reciprocity between other states and NH?
 - No, because the supervisory requirements in NH are not the same as in other states;
 - However, re-certification credits across state lines is acceptable.

Pesticide Rules can be found at:

<http://www.agriculture.nh.gov/rules/index.htm>

Commercial For Hire (CFH):

Anyone applying pesticides on a commercial basis, on the property of another, must be licensed as a commercial applicator. There are 20 categories of commercial license; further defined by two general types of CFH license: supervisory and operational.

Supervisory

- Must submit resume;
- Must have been registered at the operational level for 5 years, or working in the field for this period of time under the supervisory level;
- Examination: written and oral;
- Re-certification credits;
- Proof of insurance;
- Yearly license renewal;
- Pesticide use report.

Operational

- Must be 18;
- Written examination;
- Recertification seminars;
- Renew yearly;
- Use report;
- Must work under and within voice communication of a supervisory license;

Commercial Not-For-Hire (CNFH)

PES 101.06: *Commercial applicator not for hire means those commercial applicators who apply pesticides to their own premises, that of their immediate employers or when performing duties required of them by a governmental subdivision, and any other commercial applicator other than a "commercial applicator for hire", including but not limited to golf course personnel, state, federal and municipal employees.*

Licensing Requirements:

- Examination: written (no oral exam required);
- Re-certification credits;
- Yearly license renewal;
- Pesticide use report.

Major Difference between Commercial and Commercial Not-For-Hire?

- Insurance requirements;
- Oral exam;
- CNFH are exempt from the 5 year supervisory requirement (see admin rule 303.01 (h) below):

Pes 303.01 Qualifications For Supervisory Level Certificates.

(a) To be eligible for registration at the supervisory level the applicant shall satisfy one or more of the following requirements:

(1) The applicant shall have been registered at the operational level for 5 years, or shall have been actively working in the field for this period of time under the supervision of a person registered at the supervisory level;

(2) The applicant:.....

(h) Those applying for registration as commercial applicators not for hire as defined in Pes 101.06 shall be exempt from the requirements of Pes 303.01(a).

Major Similarities between CFH and CNFH?

- They both require that an entity applying pesticides hold a supervisory license as described Pes 403.01:
- Pes 403.01 Supervisory Level Certificate of Registration. At least one employee at the supervisory or managerial level of each business entity applying pesticides commercially shall hold a supervisory level certificate of registration. If more than one supervisory office or district exists in the state for any one business entity, then at least one member of each such district shall hold a supervisory level certificate of registration.

Obtaining a Commercial Not-For-Hire License:

- Determine the appropriate category;
- Obtain study material from UNH Cooperative Extension Home and Garden Center;
- Submit Application and exam fees to Division of Pesticide Control (\$130-\$145 material);
 - Municipal, non-profit, state and Federal employees are exempt from application fee but pay fee for the exam (\$5/category);
- Schedule written exam with DPC (held every Friday);
- Supervisory candidates who are municipal, non-profit, state, federal employees do not take oral exam with exception of Category F2 (mosquito black fly).

Recertification Credits:

- Need 12 credits per each type of commercial license category during a five year period;
- Applicators may re-certify by exam;
- License renewal: yearly expires on 12/31. Submit application and use report;
- License expires when you leave a company.

Other Important Items

If it is not your property, using pesticides can get you fined.

- Examples:
 - homeowner spraying an herbicide in the DOT right of way (~6 from the road);
 - A parishioner spraying a weed killer at a church.

General Use Permit

- A general use permit is required for private property owners that grow or produce items for sale.

Pesticide Control Board Rule Revision(s)

In May 2010, the NH Division of Pesticide Control enacted several rule changes specific to invasive plants. These include:

1. Label Is the Law...not always.

- The rule change allows for the FIFRA 2(ee) exceptions for treatment of invasive (pest, method, rate). The revised rule is Pes 502.01 (d);
- This means that practitioners can apply herbicide at rates less than specified on the label (unless expressly prohibited by the label); AND
- It means that an herbicide can be used against a target pest that is not specified on the label as long as the use conforms with the site specified on the label, unless otherwise prohibited. Previous to this rule change, there were specific invasive species, such as oriental bittersweet, that were not listed on any label; thereby preventing the effective control of these invasive plants. This rule change allows

practitioners to use an herbicide based on the approved habitat rather than the specific plant.

2. **Brown-Out Rule lifted for invasive plants**

- Previous rule regarding brown out along rights-of-way was as follows:
Pes 505.01 Use Along Public Road Rights-of-Way. No herbicide shall be applied to brush along public road rights-of-way of this state of more than one year's growth or during the period of green foliage for deciduous trees except that where the brush is cut down and removed, a stump treatment method may be used on the remaining stumps at any time of the year.
- The rule change now provides the following exception to Pes 505.01:
Pes 505.01 (C) For the control of invasive species as listed within Agr 3802.01 NH Prohibited Invasive Species, New Hampshire restricted invasive species as described within RSA 430:53 IV, Common Reed (*Phragmites australis*, formerly *P. communis*), or Purple Loosestrife (*Lythrum salicaria*).

3. **Waiting time for permits eliminated; to aid early detection rapid response.**

- Lead time requirements for special permits have been eliminated for invasive plant projects. The revised rule is Pes 505.05 (c).
- Invasive plant projects have also been exempted from notification requirements for spraying in the right-of-way. The revised rule is Pes 505.06 (a) 3.

More Rule Changes in the Pipeline at the Division of Pesticide Control?

NH Division of Pesticide Control is considering revisions to the licensing rules. The CWIPP Partnership discussed licensing issues that could be construed as possible 'impediments' to effective invasive plant control. The list below contains points of discussion; they are not an endorsement nor are they official positions of the CWIPP or its partners.

1. **Create a new licensing category for invasive plants**

- a. A new licensing category for invasive plants could create many opportunities for innovative approaches to licensing, training, and effective control of invasive plants. For instance, with only 25 prohibited plants, a limited number of chemicals, and a handful of potential habitat types; treatment alternatives and training programs, licensing, and permitting could be significantly streamlined.

2. **Supervisory/ Licensing Requirements**

- a. The discussion supported restrictive requirements for pesticide licensing; however, obtaining the five year standard under a supervisory license is difficult.
- b. **NOTE:** During the discussion there was a misunderstanding about exemptions to the 5 year EXPERIENCE REQUIREMENT FOR COMMERCIAL supervisory licensing. Those misunderstandings have been clarified in the Commercial Not For Hire section of the minutes above. Essentially, the 5 year supervisory requirement DOES NOT APPLY TO THE COMMERCIAL NOT FOR HIRE SUPERVISORY LICENSE. Hence, the meeting notes on this topic have been removed, as they were no longer relevant.
- c. There was also concern expressed about licensing for land conservation organizations. Often land trusts hold easements, which are not owned by the land trust, but the land trust has stewardship responsibilities that are similar to ownership. **ACTION:** Need to determine rules and interpretation on this issue. If not adequately addressed in the existing rules, new rules could be enacted to allow those with stewardship

responsibilities for certain lands to apply pesticides to conservation easements provided that landowner permission is granted and/or memorialized in a conservation plan.

- d. Outstanding question: Are there different rules for pesticide application to lands not-open to public use?

3. **Volunteers Use of Herbicides:**

- a. During a discussion on the topic of volunteer use of herbicides the following concerns were expressed: insurance, liability, and training.
- b. As practitioners, natural resource professionals, or commercial applicators; there was concern expressed about the liability posed by having volunteers apply herbicides on public land or under a supervisory license.
- c. It was suggested that a limited selection of methodologies coupled with specific training for volunteer applicators would help reduce liability.

4. **Comments on rule changes can be submitted a letter to the chairperson of NH's Pesticide Board (Lorraine Merrill) or to David Rousseau, Director of the NH Division of Pesticide Control.**

Developing a Landscape Scale Prioritization Strategy for Invasive Plants

The Great Bay National Estuarine Research Reserve is seeking input to develop a landscape scale prioritization strategy for invasive plant control projects throughout the Great Bay and Coastal watersheds. GBNERR's overall goal is to prioritize areas where invasive plant removal will most effectively protect our native natural resources.

- 1. Engage partners to gather input on the natural resource parameters that are considered most important in this region (using a shared Google document);
- 2. Summarize these parameters and survey individual partners to rank their importance according to their individual opinion (using Survey Monkey);
- 3. Pool individual rankings to develop a shared scoring for all natural resource parameters;
- 4. Use this ranking to develop a region-wide natural resource co-occurrence model (GIS model);
- 5. Gather as much comprehensive mapping information as possible on where different species of invasive plants are located throughout our watersheds (using Google Maps);
- 6. Identify landscape elements where certain invasive plant species may spread. For example roads if Japanese knotweed is located there and mowed;
- 7. Overlay the locations of invasive plants on our natural resource sensitivity model to determine which populations of invasive plants might be the priorities to control. Where possible identify areas where invasive plants are most likely to be the source for new colony spread and incorporate this in our GIS model.

Next Meeting is November 18, 2010 at the US Forest Service in Durham from 9-11.